

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

May 11 PM 2:09
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STEELCASE, INC. a Michigan
corporation,

Plaintiff,

v

Case No.: 1:04cv0026
Hon. Robert Holmes Bell
Chief, U. S. District Judge

HARBIN'S INC., an Alabama
corporation, MICHAEL G. HARBIN
and HOPE D. HARBIN PATTERSON (now
HOPE DUNCAN PATTERSON),

Defendants.

MILLER, JOHNSON, SNELL &
CUMMISKEY, P. L. C.
Jon G. March (P17065)
Attorneys for Plaintiff
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P. O. Box 306
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HOPE D. HARBIN - PATTERSON (now
HOPE DUNCAN PATTERSON)
Defendant in Pro Per
4514 Chamblee Dunwoody Rd., 238
Atlanta, GA 30338-6202

SILVERMAN, SMITH, BINGEN & RICE, P.C.
Robert W. Smith (P31192)
Attorneys for Defendant Michael G. Harbin
151 S. Rose Street
707 Comerica Building
Kalamazoo, MI 49007
(269) 381-2090

AFFIDAVIT OF ROBERT W. SMITH

Robert W. Smith deposes and says as follows:

1. I am the attorney of record for Defendant Michael G. Harbin, Jr. ("Harbin") in the above captioned case.
2. If called upon to testify I can testify truthfully and accurately as to all those matters contained herein.

3. I have represented Harbin in this matter since he was added as an additional defendant in the First Amended Complaint initially filed against Defendant Harbin's, Inc.

4. At the time the answer to the First Amended Complaint (naming Harbin) was filed, I did not believe there was sufficient evidence to support an affirmative defense that Harbin had been fraudulently induced by Plaintiff Steelcase, Inc. ("Steelcase") into signing the two personal guaranties ("guaranties") attached to the First Amended Complaint. Specifically, there was no corroborating evidence, that he was aware of, to support Harbin's contention that he was told by Steelcase employees that the guaranties were intended to be limited to specific purchase orders. More importantly, there was no evidence, that I was aware of, that Steelcase intended to induce Harbin into signing the guaranties by telling him the guaranties were limited to specific purchase orders, yet intending that the guaranties be treated as continuing guaranties. However, when Marvis James, Regional Credit Manager for Steelcase, was deposed on March 31, 2005, he admitted to believing that the guaranties signed by Harbin were limited to certain specific purchase orders identified in each of the guaranties.

5. James' testimony not only corroborates Harbin's testimony with regard to what he was told about the guaranties, but it also shows that Steelcase's own key employee in this situation was duped into believing that those guaranties were intended to be limited when Steelcase had no such intention.

6. The additional evidence of James' testimony provided the needed evidentiary support to add the affirmative defense of fraudulent inducement.

7. Accordingly, when Steelcase's Motion for Leave to File a Second Amended Complaint was granted, Harbin used that opportunity to amend his answer to include the additional affirmative defense of fraudulent inducement.

8. Further your affiant sayeth not.

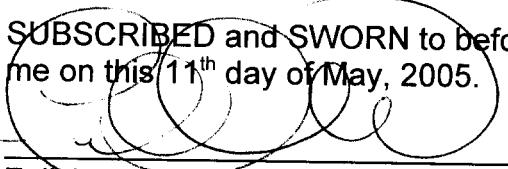
Dated: May 11, 2005

SILVERMAN, SMITH & RICE, P.C.
Attorneys for Defendant Michael G. Harbin



Robert W. Smith (P31192)

STATE OF MICHIGAN)
>
COUNTY OF KALAMAZOO).


SUBSCRIBED and SWORN to before
me on this 11th day of May, 2005.

Felicia A. Williams, Notary Public
Kalamazoo County, Michigan
My Commission Expires: 06/16/05
Acting in the County of Kalamazoo.